

Message Text

PAGE 01 STATE 240636

42

ORIGIN EA-09

INFO OCT-01 ISO-00 DHA-02 PRS-01 PM-04 NSC-05 SP-02 SS-15

AID-05 EB-07 TRSE-00 CIAE-00 INR-07 NSAE-00 SSO-00

NSCE-00 INRE-00 /058 R

DRAFTED BY EA/PHL:DPSULLIVAN:KA

APPROVED BY EA/PHL:BAFLECK

D/HA - MR. WILSON

D/HA - MR. HARRIS

D/HA - MR. HILL

L/HR - MR. RUNYON

L/PM - MR. BOREK

H - MISS SWIFT

----- 030901

O 281426Z SEP 76

FM SECSTATE WASHDC

TO AMEMBASSY MANILA IMMEDIATE

C O N F I D E N T I A L STATE 240636

E.O. 11652:GDS

TAGS: SHUM, MASS, RP

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION

REF: STATE 231122

1. SENATOR HUMPHREY AS CHAIRMAN OF THE FOREIGN ASSISTANCE SUBCOMMITTEE HAS ASKED THE DEPT TO PROVIDE THE SUBCOMMITTEE STAFF BASIC HUMAN RIGHTS DATA AND INFORMATION ON 17 COUNTRIES, INCLUDING THE PHILIPPINES, ON A CONFIDENTIAL BASIS FOR THE STAFF'S USE IN PREPARING LEGISLATION. IN RESPONSE TO THIS REQUEST, THE SECRETARY HAS AUTHORIZED US TO PROVIDE THE SUBCOMMITTEE WITH THIS BASIC DATA AND INFO USING AS A BASIS THEREFOR UPDATED DRAFTS OF HUMAN RIGHTS OBSERVANCE REPORTS ON THE 17 COUNTRIES WHICH THE DEPT HAS CONFIDENTIAL

PAGE 02 STATE 240636

BEEN PREPARING FOR POSSIBLE SUBMISSION EARLY NEXT YEAR IN ACCORDANCE WITH SECTION 502(B) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976. (THE TEXT

AND A DISCUSSION OF THE RELEVANT LEGISLATIVE PROVISIONS WERE TRANSMITTED BY REFTEL.) ALL INFORMATION WILL BE PROVIDED ON A CLASSIFIED BASIS, AS SENATOR HUMPHREY REQUESTED AND THE SECRETARY HAS DIRECTED, ALTHOUGH PUBLIC DISCLOSURE CANNOT BE PRECLUDED.

2. WE HAVE INFORMED THE SUBCOMMITTEE THAT THE REQUESTED INFORMATION IS BEING COLLECTED AND PREPARED FOR TURNOVER IN TWO WEEKS, I.E., OCTOBER 8. ACCORDINGLY, CORRECTIONS, UPDATING INFORMATION, COMMENTS AND EMBASSY CLEARANCE ON THE LATEST, PARTIALLY CLEARED, DRAFT OF THE HUMAN RIGHTS OBSERVANCE ON THE PHILIPPINES, TRANSMITTED BELOW, ARE NEEDED URGENTLY, BY COB WASHINGTON SEPT 30 LATEST, TO ALLOW TIME FOR COMPLETION OF THE CLEARANCE PROCESS, TYPING AND SUBMISSION TO CONGRESS BY THE DEADLINE INDICATED.

3. TEXT OF DRAFT HUMAN RIGHTS REPORT FOR THE PHILIPPINES FOLLOWS. QUOTE:

4. I. BRIEF FACTUAL DESCRIPTION OF THE POLITICAL SITUATION.

MARTIAL LAW HAS BEEN IN EFFECT IN THE PHILIPPINES SINCE SEPTEMBER 1972 AND LEGISLATIVE BODIES HAVE NOT FUNCTIONED SINCE THAT TIME. PRESIDENT MARCOS GOVERNS BY DECREE, ASSISTED BY HIS CIVILIAN CABINET AND THE MILITARY. THE CIVILIAN BUREAUCRACY AND THE JUDICIAL SYSTEM FUNCTION NORMALLY IN MOST CASES, ALTHOUGH MILITARY TRIBUNALS EXERCISE CRIMINAL JURISDICTION IN SOME CASES PREVIOUSLY HANDLED BY REGULAR CIVILIAN COURTS. THE ARMED FORCES OF THE PHILIPPINES ARE SUBORDINATE TO CIVILIAN CONTROL.

5. THERE IS LITTLE FORMAL POLITICAL ACTIVITY IN A TRADITIONAL SENSE UNDER THE MARTIAL LAW ADMINISTRATION IN THE ABSENCE OF EITHER LEGISLATIVE BODIES OR POLITICAL ELECTIONS. WHILE POLITICAL PARTIES, EXCEPT FOR THE COMMUNIST PARTY, HAVE NOT BEEN OUTLAWED, THEY HAVE BEEN INACTIVE.
CONFIDENTIAL

PAGE 03 STATE 240636

6. II. LEGAL SITUATION.

THE PHILIPPINE CONSTITUTION OF 1935 CONTAINS PROVISIONS PERMITTING THE SUSPENSION OF THE WRIT OF HABEAS CORPUS AND THE IMPOSITION OF MARTIAL LAW. THUS, THE DECLARATION OF MARTIAL LAW IN 1972 HAD A LEGAL BASIS. THE 1973 CONSTITUTION, WHICH REPLACED THE 1935 CONSTITUTION, CONTAINS SIMILAR PROVISIONS. IT ALSO CONTAINS AN EXTENSIVE BILL OF RIGHTS SECTION WHICH IS BASED ON THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.

7. PERSONS SUSPECTED OF SUBVERSIVE BEHAVIOR, DEFINED AS VIOLATIONS OF CRIMINAL LAW ARTICLES 134-142 (REBELLION,

SEDITION OR DISLOYALTY) OR OTHER PRESIDENTIAL DECREES, MAY BE ARRESTED UNDER PROCLAMATION 1081 (DECLARING MARTIAL LAW) AND IN ACCORDANCE WITH GENERAL ORDER NO. 2 (DIRECTING THE SECRETARY OF NATIONAL DEFENSE TO ESTABLISH A COMMAND FOR THE ADMINISTRATION OF DETAINEES AND OUTLINING PROCEDURES

FOR ARREST AND DETENTION) AND DEPARTMENT OF NATIONAL DEFENSE ORDER 726 (ESTABLISHING THE COMMAND FOR THE ADMINISTRATION OF DETAINEES). ONCE ARRESTED, THE DETAINEE IS SUPPOSED TO BE REFERRED TO AN INQUEST OFFICER WITHIN 18 TO 72 HOURS. THIS OFFICER DETERMINES WHETHER PROBABLE CAUSE EXISTED FOR THE ARREST. IF THE DETERMINATION IS NEGATIVE, THE PERSON IS RELEASED. IF IT IS POSITIVE, THE INDIVIDUAL IS CONSIGNED TO A DETENTION FACILITY. NEW PROCEDURES ANNOUNCED IN SEPTEMBER 1976 REQUIRE THAT ALL SUCH ARRESTS BE REPORTED TO THE COMMAND FOR THE ADMINISTRATION OF DETAINEES WITHIN 24 HOURS.

8. III. OFFICIAL ATTITUDE TOWARD AND ACTUAL OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND FREEDOMS.

A. INTEGRITY OF THE PERSON

ARTICLE 3: MOST FILIPINOS ENJOY THE RIGHT TO LIFE, LIBERTY AND THE SECURITY OF PERSON, BUT THE NATURE OF THE MARTIAL LAW ADMINISTRATION IS SUCH THAT, THEORETICALLY, ANY OF THESE RIGHTS CAN BE ABRIDGED. DULY CONSTITUTED
CONFIDENTIAL

PAGE 04 STATE 240636

CIVIL COURTS ARE FUNCTIONING IN THE PHILIPPINES AND THE GREAT MAJORITY OF CASES, BOTH CIVIL AND CRIMINAL, ARE PROCESSED IN ACCORDANCE WITH NORMAL DUE PROCESS OF LAW. HOWEVER, THE WRIT OF HABEAS CORPUS WAS SUSPENDED FOR CERTAIN CATEGORIES OF PEOPLE AS A RESULT OF THE DECLARATION OF MARTIAL LAW.

ARTICLE 4: THERE IS NO SLAVERY IN THE PHILIPPINES.

ARTICLE 5: SINCE THE IMPOSITION OF MARTIAL LAW THERE HAVE BEEN REPORTS OF TORTURE AS WELL AS OF CRUEL, INHUMAN AND DEGRADING PUNISHMENT IN THE CASES OF SOME POLITICAL DETAINEES IN THE PHILIPPINES. THE INCIDENCE OF SUCH REPORTS WAS MOST FREQUENT IN THE IMMEDIATE AFTERMATH OF THE DECLARATION OF MARTIAL LAW. IN RECENT YEARS THE NUMBER OF SUCH REPORTS HAS DECREASED BUT THE REPORTS THEMSELVES HAVE BEEN MORE FULLY DOCUMENTED. WHEN TORTURE HAS BEEN ALLEGED, IT IS SAID TO HAVE TAKEN PLACE USUALLY IN THE FIRST STAGES OF INTERROGATION AS A RESULT OF ACTIVITIES BY LOWER-RANKING MILITARY PERSONNEL PRIOR TO THE ASSIGNMENT OF DETAINEES TO REGULAR DETENTION CENTERS. THERE IS NO EVIDENCE THAT TORTURE OF PRISONERS IS AN APPROVED GOVERNMENT POLICY, AND SENIOR PHILIPPINE OFFICIALS

HAVE STATED IT IS NOT THE GOVERNMENT'S POLICY.

ARTICLE 9: SINCE THE INSTITUTION OF MARTIAL LAW, THERE HAVE BEEN NUMEROUS ARRESTS AND DETENTIONS OF PRISONERS WITHOUT CHARGE OR TRIAL, IN SOME CASES FOR AS LONG

AS FOUR YEARS. AT THE OUTSET OF MARTIAL LAW, THE GREAT MAJORITY OF PERSONS DETAINED WHO WOULD FALL INTO THE CATEGORY OF "POLITICAL PRISONER" WERE RELEASED WITHIN A FEW MONTHS. FIRM FIGURES FOR NUMBERS OF POLITICAL PRISONERS STILL IN DETENTION ARE NOT AVAILABLE BUT ESTIMATES RANGE FROM 1,000 TO 6,000 DEPENDING ON WHICH CATEGORIES OF INDIVIDUALS ARE INCLUDED WITHIN VARYING DEFINITIONS OF "POLITICAL PRISONERS". GENERALLY, THE NUMBER OF DETAINEES HELD WHO ARE NON-VIOLENT OPPONENTS OF THE MARTIAL LAW REGIME IS BELIEVED TO FALL IN THE LOWER PART OF THIS RANGE.

ARTICLES 10 AND 11: BOTH THE MILITARY AND CIVILIAN
CONFIDENTIAL

PAGE 05 STATE 240636

COURTS ARE IN EXISTENCE TO TRY PERSONS DETAINED UNDER MARTIAL LAW, BUT FEW CASES HAVE ACTUALLY BEEN BROUGHT TO TRIAL. THOSE HEARINGS AND TRIALS WHICH HAVE BEEN HELD HAVE BEEN OPEN TO THE PUBLIC. MOST POLITICAL PRISONERS HAVE HAD ACCESS TO THEIR FAMILIES FROM EARLY IN THE PERIOD OF THEIR DETENTION. ACCESS TO LAWYERS HAS BEEN CONSIDERABLY MORE RESTRICTED. HOWEVER, ONCE SUCH PRISONERS ARE CHARGED TO BE TRIED BY A MILITARY COMMISSION, THEY ARE TO BE PROVIDED A JUDGE ADVOCATE AS DEFENSE COUNSEL UNLESS THEY EMPLOY THEIR OWN ATTORNEY.

B. OTHER IMPORTANT FREEDOMS

DISCRIMINATION, LEGAL OR OTHERWISE, ON THE BASIS OF RELIGION, RACE OR COLOR IS REMARKABLY LACKING IN THE MULTI-RACIAL PHILIPPINE SOCIETY. PERSONAL PROPERTY IS PROTECTED UNDER LAW. THERE ARE SOME TRAVEL RESTRICTIONS WITHIN THE COUNTRY PERTAINING TO TRAVEL TO INSURGENT AREAS OF MINDANAO AND THE SULU ARCHIPELAGO, AND TRAVEL RESTRICTIONS ARE SOMETIMES PLACED ON FORMER POLITICAL PRISONERS RELEASED ON PAROLE. FILIPINOS WISHING TO TRAVEL ABROAD MUST OBTAIN EXIT PERMITS. TRAVEL ABROAD FOR TOURISM IS NOT PERMITTED; APPLICANTS MUST FALL WITHIN CERTAIN SPECIFIED CATEGORIES: SCHOLARS, GOVERNMENT OFFICIALS, DELEGATES TO CONFERENCES, ETC.

THERE IS LIMITED FREEDOM OF EXPRESSION IN THE PHILIPPINES. DURING THE INFORMATION CAMPAIGN PRIOR TO THE 1974 REFERENDUM, OPPONENTS OF THE GOVERNMENT SPOKE TO CIVIC GROUPS AND ON UNIVERSITY CAMPUSES ALTHOUGH LITTLE OF THIS CRITICISM WAS CARRIED IN THE PRESS. THE MEDIA EXERCISE SELF-CENSORSHIP, WHICH IN EFFECT MEANS THEY CARRY NOTHING

CRITICAL OF THE GOVERNMENT AND ARE ESSENTIALLY CONTROLLED.

THE GOVERNMENT HAS NOT ACTIVELY ABRIDGED FREEDOM OF ASSOCIATION EVEN FOR MANY OF ITS OUTSPOKEN CRITICS, AND IT HAS ALLOWED SOME SMALL OPPOSITION RALLIES AND PEACEFUL

ASSEMBLIES TO TAKE PLACE. HOWEVER, IT MONITORS THESE EVENTS CAREFULLY AND ENSURES THAT THEY RECEIVE LITTLE OR NO MEDIA COVERAGE. POLITICAL PARTIES HAVE BEEN INACTIVE
CONFIDENTIAL

PAGE 06 STATE 240636

SINCE THE INCEPTION OF MARTIAL LAW, BUT ONLY THE COMMUNIST PARTY IS OFFICIALLY BANNED.

9. IV. OTHER HUMAN RIGHTS REPORTING.

TEAMS FROM THE INTERNATIONAL COMMISSION OF THE RED CROSS (ICRC) INSPECTED PHILIPPINE DETENTION CENTERS IN MARCH 1973 AND NOVEMBER AND DECEMBER 1974. REPRESENTATIVES OF THE INTERNATIONAL COMMISSION OF JURISTS (ICJ) AND AMNESTY INTERNATIONAL VISITED THE PHILIPPINES DURING 1975. THE REPORT OF THE AMNESTY INTERNATIONAL MISSION WAS RELEASED ON SEPTEMBER 15, 1976. NEITHER OF THE OTHER ORGANIZATIONS HAS YET PUBLISHED A REPORT.

10. THE ASSOCIATION OF MAJOR RELIGIOUS SUPERIORS OF THE PHILIPPINES (AMRSP) FROM TIME TO TIME HAS PUBLISHED STATEMENTS ON HUMAN RIGHTS IN THE PHILIPPINES, PARTS OF WHICH HAVE BEEN REPORTED IN THE PHILIPPINE PRESS. THE MARCH 31, 1976, ISSUE OF THE AMRSP PUBLICATION "SIGNS OF THE TIMES" CONTAINED A 101-PAGE STUDY OF THE SITUATION OF POLITICAL PRISONERS IN THE PHILIPPINES.

11. FREEDOM HOUSE LISTS THE PHILIPPINES AS "PARTIALLY FREE." END QUOTE. KISSINGER

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 16 SEP 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: HUMAN RIGHTS, REPORTS, TEXT, CENTRAL LEGISLATURE, BRIEFING MATERIALS
Control Number: n/a
Copy: SINGLE
Draft Date: 28 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE240636
Document Source: ADS
Document Unique ID: 00
Drafter: EA/PHL:DPSULLIVAN:KA
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Film Number: D760365-1018
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t197609108/baaaeqgt.tel
Line Count: 256
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 07 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 JUN 2004 by CunninFX>; APPROVED <29 SEP 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS INFORMATION
TAGS: SHUM, MASS, RP, US
To: MANILA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006